

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant :	Rahul R. Vaid	Art Unit :	3626
Serial No. :	09/409,242	Examiner :	Robert W. Morgan
Filed :	September 30, 1999	Conf. No. :	5090
Title :	PRE-PAID AIRLINE TICKETS		

MAIL STOP APPEAL BRIEF - PATENTS

Commissioner for Patents
P.O. Box 1450
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RESPONSE TO EXAMINER'S ANSWER

This Reply under 37 C.F.R. 41.41 is responsive to Examiner's Answer mailed September 21, 2007 in response to the Supplemental Appeal Brief by Appellant filed on June 4, 2007. The Supplemental Appeal Brief was submitted in response to a Notification of Non-Compliant Appeal Brief under 37 CFR 41.37 mailed on May 29, 2007.

CERTIFICATE OF MAILING BY EFS-WEB FILING

I hereby certify that this paper was filed with the Patent and Trademark Office using the EFS-WEB system on this date: November 21, 2007

STATUS OF CLAIMS

Claims 1-16 and 76-78 remain pending in the Application. Claims 1-16 and 76-78 are being appealed by way of this Appeal Brief. A copy of the claims appears in the Claims Appendix, Section VIII, of the Supplemental Appeal Brief being submitted concurrently herewith.

With regard to the prosecution history of the claims of the present application, claim 34 was amended in an Amendment filed on September 23, 2002. Claims 1, 34, and 44 were amended and claims 50-56 were added in an Amendment filed on February 3, 2003. Claims 17-33 were withdrawn and claims 57-74 were added in an Amendment filed on November 3, 2003. Claims 1, 34, 44, and 66 were amended and claims 65-74 were renumbered as claims 66-75 in an Amendment filed July 19, 2004. Claim 1 was amended and claims 34-75 were canceled in an Amendment filed March 1, 2005. Claims 1, 3, 6, and 8-16 were amended in an Amendment filed September 6, 2005, but the Amendment was not entered for being non-compliant. The Amendment filed September 6, 2005 was re-filed on October 10, 2005, and the amendments to claims 1, 3, 6, and 8-16 were entered. Claim 1 was amended and claims 76-78 were added in an Amendment filed April 3, 2006.

As a summary, claims 1-16 and 76-78 were all previously presented and remain pending. Claims 17-33 were withdrawn. Claims 34-75 were canceled.

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Attorney's Docket No. 14892-006001

GROUND OF REJECTION TO BE REVIEWED ON APPEAL

As a concise statement of the grounds for appeal, Applicant states that Claims 1-16 and 76-78 stand rejected under 35 U.S.C. 103(a) in the present Final Office Action mailed on July 10, 2006, with the Examiner finding the claims to be unpatentable over U.S. Patent No. 5,897,620 to Walker et al. ("Walker") in view of "Hawaiian Air to Offer Tickets Through ATMs" by Wall Street Journal ("Hawaiian Air").

REMARKS

Claims 1-16 and 76-78 remain on Appeal. Claims 17-33 were previously withdrawn. Claims 34-75 were canceled without prejudice. Appellant believes no new grounds for rejection were raised in Examiner's Answer.

Remarks in Response to Examiner's Answer dated September 21, 2007

In response to the Examiner's Answer, specifically on page 11 in the Response to Argument (B) section, Appellant respectfully submits that regardless of whether there are multiple flights or only one flight from the participating airlines that meets a customer's travel criteria (a narrow hypothetical proposed in the last sentence of the section), Walker teaches away from Appellant's claim 1 ("receive selection information of one of the flights from the customer; and book the flight selected by the customer" (emphasis added)). In both cases, whether multiple flights are available or a single flight is available that meets the customer's criteria, Walker teaches that an airline selects and books the flight for the customer (see Walker, col. 3, lines 1-11; "receiving an identification of a flight selected by the airline which fulfills the terms of the ticket." (emphasis added); col. 6, lines 4-8, "[u]pon purchasing the unspecified-time ticket, the traveler 105 is provided with a special fare listing number and a notification date, by which date the traveler 105 will be provided with the actual flight number and a departure time [by an airline that selects and books the flight]"). Appellant respectfully submits there has been no showing in Walker where someone other than the airline selects and books the flight. Therefore, because Walker teaches away from Appellant's claimed invention, Appellant respectfully submits that the rejection under 35 U.S.C. 103 is improper.

The remarks below, which were previously presented in the Supplemental Appeal Brief filed June 4, 2007, Reply Brief Under CFR 41.41 filed June 4, 2007, and the Appeal Brief filed March 19, 2007, further distinguish Appellant's claimed invention and the cited art.

Remarks Regarding Claim Rejections under 35 U.S.C. § 103

Claim 1 remains on appeal as follows and as submitted in the Appeal Brief:

A. Claim 1

1. A pre-paid airline ticketing system comprising:
a processor; and
a storage device in communication with said processor and configured to store a record representing a pre-paid, fixed-price option purchased by a customer, the record including:
 - (i) a plurality of geographic flight parameters and a plurality of non-geographic flight parameters, at least one of the geographic flight parameters being unspecified and at least one of the non-geographic flight parameters being participating airlines available for selection by the customer for booking a flight; and
 - (ii) an identifier associated with and uniquely identifying the record for the customer to use to exercise the pre-paid, fixed price option; andsaid processor configured to:
verify an identifier submitted by a customer to exercise the pre-paid, fixed-price option;
retrieve the record including the identifier submitted by the customer;
directly communicate and present information to the customer, the information representative of flights available to be selected by the customer based on the geographic and non-geographic flight parameters stored in the record;
directly receive selection information of one of the flights from the customer; and
book the flight selected by the customer from among the presented flights by exercising the pre-paid, fixed-price option. (emphasis added)

Briefly, a system according to claim 1 includes a processor configured to present information representative of flights available to be selected by the customer and receive selection information of a flight from the customer to book the flight selected by the customer who is exercising the pre-paid, fixed-price option.

Page 4, lines 4-12 of the Examiner's Answer states:

In an alternative embodiment, Walker et al. also teaches traveler could receive a verification code and use it to pick up a ticket at the airline's desk prior to departure (see: column 15, lines 46-49). Moreover, Walker et al. teaches that if instructed by the traveler (105, Fig. 1) and if there is available inventory for a special fare listing, the travel agent (110, Fig. 1) will book the unspecified-time ticket and create a passenger name record (PNR) number (see: column 5, lines 64 to column 6, lines 5). *This suggests that actual flight information is presented and selected by the customer or agent via a network.* For example, if only one flight from the participating airlines meets the passenger[s] travel criteria and then is presented and selected by the passenger, it would meet Applicant claimed invention. (emphasis added)

Appellant respectfully disagrees with Examiner's statement italicized in the above quote as Appellant believes Walker's alternative embodiment does not teach or suggest a system that operates in a way other than a system that enables airlines to book a ticket for a passenger. More specifically, and as recited in Appellant's Appeal brief, Walker specifically recites in col. 3, lines 1-11,

a system and method for ... transmitting the special fare listing to a buyer; receiving a booking of a ticket corresponding to the special fare listing from the buyer; transmitting the booking information to an airline; and receiving an identification of a flight selected by the airline which fulfills the terms of the ticket. (emphasis added)

The above-cited disclosure by Walker is in direct contrast to Appellant's claim 1, last paragraph, which recites, "book the flight selected by the customer from among the presented flights." (emphasis added) A restriction consistent with Walker's system prohibiting a customer from selecting his or her flight is described in Appellant's background section of the originally filed Application on page 2, lines 7-13.

Walker's alternative embodiment is described in col. 15, lines 34-52 as:

in the event that a traveler purchases an unspecified-time ticket close to the date of departure (e.g., a week or less), the travel agent or airline may have insufficient time to forward to the traveler a ticket with the actual flight data printed thereon. In that case, the airline can issue a ticket with the actual flight data except for the flight number and departure time. **Once the airline has selected an actual flight for the traveler**, the airline would provide the traveler directly, or through his travel agent, with a verification code together with the flight number and departure time.

As further stated on page 4, lines 9-10 of the Examiner's Answer, "[t]his *suggests that actual flight information is presented and selected by the customer or agent via a network.*" However, appellant respectfully submits that such a suggestion of Walker's alternative embodiment is a misinterpretation and misreading of Walker since the entire passage does not appear to have been considered. Specifically, the Examiner's Answer cited column 5, line 64 to column 6, line 5. However, had the entire passage, column 5, line 64 to column 6, line 8, been considered, where lines 5-8 state, "the traveler 105 is provided with a special fare listing number and **a notification date, by which date the traveler 105 will be provided with the actual flight number and departure time,**" the conclusion would have been the same as reached in Walker's primary embodiment, which is that the airline books the flight. In particular, in Walker's alternative embodiment, the reason that the traveler is provided a notification date by which the traveler will be provided with the actual flight number and departure time is, again, because the airlines book the flight. Walker's system is limited to airlines booking a flight for a customer even in the case of a travel agent's requesting a flight booking by Walker's system for the customer.

Claims 2-16 and 76-78, which depend from independent claim 1, should be considered allowable for at least the same reasons as further described in the concurrently submitted Supplemental Appeal Brief.

In view of the above, and for other reasons clearly apparent, Applicant respectfully submits that the Application is in condition for allowance, and requests such a Notice.

If the present Application is not allowed and/or if one or more of the rejections is maintained or made final, Applicant hereby requests a telephone conference with the Examiner and further requests that the Examiner contact the undersigned attorney to schedule a telephone conference.

No fees are believed due. However, please apply any deficiencies or any other required fees or any credits to deposit account 06-1050, referencing the attorney docket number shown above.

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Respectfully submitted,

Date: November 21, 2007

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